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In re Application of  
Salceda et al..  
Application No.: 09/807,201  
PCT No.: PCT/US99/24331  
Int. Filing Date: 19 October 1999  
Priority Date: 19 October 1998  
Attorney's Docket No.: DEX-0196  
For: METHOD OF DIAGNOSING, MONITORING,  
STAGING, IMAGING AND TREATING  
PROSTATE CANCER

: DECISION

This decision is being sent to applicant in order to put applicant on notice of the fact that the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) was issued prematurely. The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed on 22 May 2001, has been VACATED.

BACKGROUND

On 19 October 1999, applicants filed international application PCT/US99/24331, which claimed priority to an earlier United States application, filed 19 October 1998. A copy of the international application was communicated from the International Bureau on 27 April 2000. A Demand for international preliminary examination, in which the United States was elected, was filed on 09 May 2000, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the national stage in the United States expired at midnight on 19 April 2001.

On 10 April 2001, applicants timely filed a transmittal letter for entry into the national stage in the United States. The transmittal letter was accompanied by, *inter alia*, a transmittal letter and the basic national fee. The oath/declaration as required by 35 U.S.C. 371(c)(4) was not filed. These papers were assigned Serial No. 09/807,201.

On 22 May 2001, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) indicating that the basic national fee had not been received by 30 months from the earliest priority date.

### DISCUSSION

35 U.S.C. 371(c) states:

The applicant shall file in the Patent and Trademark Office

- (1) the national fee provided in section 41(a) of this title;
- (2) a copy of the international application, unless not required under subsection

  - (a) of this section or already communicated by the International Bureau, and a translation into the English language of the international application, if it was filed in another language;
  - (3) amendments, if any, to the claims in the international application, made under article 19 of the treaty, unless such amendments have been communicated to the Patent and Trademark Office by the International Bureau, and a translation into the English language if such amendments were made in another language;
  - (4) an oath or declaration of the inventor (or other person authorized under chapter 11 of this title) complying with the requirements of section 115 of this title and with regulations prescribed for oaths or declarations of applicants;
  - (5) a translation into the English language of any annexes to the international preliminary examination report, if such annexes were made in another language.

On 10 April 2001, applicant filed a letter for entry into the national stage in the United States, which was accompanied by an unexecuted declaration and power of attorney and an authorization to charge the basic national fee to a credit card and/or the deposit account. The credit card charge was denied. However, there were sufficient funds in the deposit account to pay the basic national fee of \$860 and the extra claim fee of \$320.

Further, on 25 April 2001, applicant filed the executed declaration and power of attorney. Applicant authorized the USPTO to charge the deposit account an additional \$130 to cover the fee for filing the declaration later than 30 months from the earliest claimed priority date.

CONCLUSION

The "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) mailed on 22 May 2001, has been VACATED.

The application is being returned to the United States Designated/Elected Office for processing in accordance with this decision; and, if appropriate, a Notification of Acceptance of Application (Form PCT/DO/EO/903) will be mailed showing a 35 U.S.C. 371 date of **25 April 2001**.

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